

Message Text

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PAGE 01 STATE 311067
ORIGIN STR-05

INFO OCT-01 EUR-12 IO-13 ISO-00 AID-05 CEA-01 CIAE-00
COME-00 EB-08 FRB-03 INR-07 NSAE-00 SP-02 TRSE-00
LAB-04 SIL-01 OMB-01 DODE-00 AGRE-00 L-03 SS-15
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EB/ITP/OT/TA:TO'HERRON
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LABOR:DPARKER

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USMTN/USEEC

E.O. 11652: N/A

TAGS: ETRD, MTN

SUBJECT: EC PROPOSAL ON LEVELS OF OBLIGATION IN MTN DRAFT
STANDARDS CODE

REF: GENEVA 12609

1. AS MTN DEL KNOWS, WE DO NOT AGREE WITH EC CONTENTION
THAT LACK OF RECIPROCITY RESULTS FROM DIFFERENT LEVELS OF
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PAGE 02 STATE 311067

OBLIGATION IN DRAFT STANDARDS CODE. CONTENTION THAT
GOVERNMENTS WITH A FEDERAL STRUCTURE AND GOVERNMENTS WITH A
UNITARY STRUCTURE ASSUME DIFFERENT OBLIGATIONS UNDER CODE
IS ONLY ONE OF FACTORS TO BE TAKEN INTO ACCOUNT IN
MEASURING RECIPROCITY OR BALANCE. WE NOTE THAT EC PROPOSAL
(REFTEL) SPECIFICALLY MENTIONS THIS LONG-STANDING ISSUE
AND, IN THIS CONNECTION, QUOTES PARAGRAPH 9 OF THE "REPORT

OF GROUP 3 ON STANDARDS." AT JANUARY 4 MEETING MTN DEL SHOULD CITE PARAGRAPH 11 OF THIS REPORT, WHICH STATES THAT "OTHER DELEGATIONS POINTED OUT THAT THE BALANCE OF OBLIGATIONS AS BETWEEN DIFFERENT ADHERENTS DEPENDED ON A NUMBER OF FACTORS, INCLUDING THE NUMBER OF STANDARDS AFFECTED, WHETHER THEY ARE MANDATORY OR VOLUNTARY, AND THE SIZE OF THE ADHERENT'S MARKET. THEY SAID THAT ASSESSMENTS OF BALANCE COULD NOT BE MADE UNTIL THE TEXT OF A CODE WAS FINALLY AGREED."

2. WE FIND IT VERY DIFFICULT TO PROVIDE ADDITIONAL COMMENTS ON EC PROPOSAL WITHOUT FURTHER INFORMATION. ACCORDING TO THIS PROPOSAL (PARA. 2(C)), IF A SIGNATORY IS UNABLE TO DISCHARGE ITS OBLIGATIONS WITH RESPECT TO THE FIRST LEVEL OF OBLIGATION, OR TO ACHIEVE RESULTS IDENTICAL TO THE FIRST LEVEL OF OBLIGATION UNDER THE "BEST ENDEAVORS" OBLIGATION, THIS MATTER COULD BE RAISED BY ANY OTHER SIGNATORY "UNDER THE PROVISIONS OF THE CODE." PRESUMABLY, THESE "PROVISIONS" RELATE TO DISPUTE SETTLEMENT PROVISIONS, WHICH HAVE NOT YET BEEN NEGOTIATED, PARTLY BECAUSE OF EC UNWILLINGNESS TO SERIOUSLY CONSIDER SUCH PROVISIONS UNTIL WORK ON OTHER ASPECTS ON THE CODE HAS BEEN COMPLETED. WHAT DISPUTE SETTLEMENT PROVISIONS DOES THE EC HAVE IN MIND? IN THE PAST THE EC HAS NOT FAVORED PUTTING TEETH INTO ANY SUCH PROVISIONS.

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PAGE 03 STATE 311067

3. IT SEEMS TO US THAT A CLEAR UNDERSTANDING OF EC INTENTIONS WITH RESPECT TO DISPUTE SETTLEMENT PROVISIONS IS NECESSARY BEFORE CONSIDERATION CAN BE GIVEN TO THIS EC PROPOSAL. THE EC HAS FAVORED ESTABLISHMENT OF A COMMITTEE TO CONSIDER MATTERS UNDER THE CODE BUT HAS NEVER EXPRESSED ANY CLEAR VIEWS ON HOW SUCH A COMMITTEE WOULD OPERATE. WHAT FUNCTIONS WOULD THIS COMMITTEE HAVE? WHAT WOULD BE ITS MEMBERSHIP? HOW WOULD DISPUTES BE SETTLED? WOULD THERE BE SANCTIONS? IF SO, WOULD SANCTIONS INVOLVE ONLY THE SUSPENSION OF CODE BENEFITS OR WOULD THEY ALSO INVOLVE THE SUSPENSION OF GATT BENEFITS, INCLUDING THE WITHDRAWAL OF TRADE CONCESSIONS?

4. WE SUGGEST THAT MTN DEL USE JANUARY 4 MEETING TO OBTAIN BETTER UNDERSTANDING OF HOW EC PROPOSAL WOULD OPERATE AND DRAW UPON ABOVE AND SIMILAR QUESTIONS FOR THIS PURPOSE. CHRISTOPHER

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Control Number: n/a
Copy: SINGLE
Sent Date: 31-Dec-1977 12:00:00 am
Decapton Date: 01-Jan-1960 12:00:00 am
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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